

claims, mill sites, or tunnel sites on Federal lands;

(b) The filing in the same office of evidence of performance of annual assessment work or of a notice of intention to hold an unpatented mining claim;

(c) The payment in the same office of an annual maintenance fee, if required, for each mining claim, mill site, or tunnel site held by the claimant;

(d) Notifying the proper BLM office of the transfer of an interest in unpatented mining claims, mill sites, or tunnel sites.

(e) These regulations are not intended to supersede or replace existing recording requirements under state law except when specifically changed by the provisions of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701), and are not intended to make the Bureau office the official recording office for all ancillary documents (wills, liens, judgments, etc.) involving an unpatented mining claim, mill site or tunnel site.

[47 FR 56304, Dec. 15, 1982, as amended at 58 FR 38197, July 15, 1993; 59 FR 44857, Aug. 30, 1994]

**§ 3833.0-2 Objectives.**

The objectives of these regulations are:

(a) To determine the number and location of unpatented mining claims, mill sites, or tunnel sites located on Federal lands in order to assist in the surface management of those lands and the mineral resources therein;

(b) To remove any cloud on the title to those lands that may exist because they are subject to mining claims that may have been abandoned;

(c) To provide the BLM with information as to the location of active mining claims;

(d) To keep the BLM informed of transfers of interest in unpatented mining claims, mill sites, or tunnel sites.

[47 FR 56304, Dec. 15, 1982]

**§ 3833.0-3 Authority.**

(a) Sections 314(a) and (b) of the Federal Land Policy and Management Act (43 U.S.C. 1744), and 30 U.S.C. 28f-28k, as amended by the Act of November 5,

2001 (115 Stat. 414), require the recordation of unpatented mining claims, mill sites, and tunnel sites, and the filing of information concerning annual assessment work performed on unpatented mining claims in the proper BLM office within specified time periods. Section 314(c) of FLPMA provides that a failure to record the required documents within the time limits imposed by the statute constitutes a conclusive abandonment of the mining claim, mill site, or tunnel site, which shall be void.

(b) The Secretary has the general responsibility and authority for the management of Federal lands under 43 U.S.C. 2, 43 U.S.C. 1212, and 43 U.S.C. 1457, and section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740).

(c) The General Mining Law of May 10, 1872, section 2319 of the Revised Statutes (30 U.S.C. 22) provides that the exploration, location, and purchase of valuable mineral deposits shall be "under regulations prescribed by law," and section 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), provides that those regulations will be issued by the Secretary.

(d) The Act of August 31, 1951 (31 U.S.C. 9701) and section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

(e) The Acts of October 21, 1998 (112 Stat. 2681-232, 2681-235), and November 5, 2001 (115 Stat. 414) (30 U.S.C. 28f-28k), require an annual maintenance fee of \$100 to be paid to the proper State Office of the Bureau of Land Management for each non-waived mining claim, mill site, or tunnel site. With certain exceptions provided in § 3833.1-6, this fee is in lieu of the requirement to perform and record annual assessment work under 30 U.S.C. 28-28e and section 314(a) of FLPMA. Failure to pay the fee within the time limits prescribed by 30 U.S.C. 28f, constitutes a statutory abandonment and forfeiture of the non-waived mining claim, mill site, or tunnel site. Provisions relating to maintenance fees and waivers are contained in §§ 3833.0-3(f), 3833.1-5, 3833.1-6, and 3833.1-7.

(f) Section 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242) requires oil shale claim holders to pay an annual fee of \$550 per oil shale claim,

notwithstanding any other provision of law. The Act of August 10, 1993, specifically states that the maintenance fee provision shall not apply to any oil shale claims for which a fee is required to be paid under Section 2511(e)(2) of the Energy Policy Act of 1992. The \$550 fee requirement for oil shale claims remains in effect. The \$550 fee is first payable on or before December 31, 1993, and on or before each December 31st thereafter.

(g) The Stockraising Homestead Act of December 29, 1916 (SRHA) (43 U.S.C. 299), as amended by the Act of April 16, 1993 (107 Stat. 60), provides that no person other than the surface owner may locate a mining claim on SRHA lands after October 13, 1993, until a notice of intent to locate has been filed with the proper BLM State Office and the surface owner is notified of the filing.

(1)(i) When a notice of intent to locate a mining claim has been properly filed by a mining claimant, no other person may, until 90 days after the date the notice of intent is filed:

(A) File such a notice with respect to any portions of the lands covered by the first notice;

(B) Explore for minerals or locate a mining claim on any portion of such lands; or

(C) File an application to acquire any interest in any portion of such lands pursuant to Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(ii) The 90-day exclusive right may be extended by filing a Plan of Operations pursuant to subpart 3809 of this title. The extension runs until the BLM has approved or denied the Plan of Operations.

(2) The mining claimant may not locate mining claims on the lands encompassed by a notice under the Act of April 16, 1993, until at least 30 days after he or she has properly notified the surface owner by registered or certified mail, return receipt requested.

(3) The Act of April 16, 1993, contains numerous other requirements prerequisite to a claimant engaging in mineral exploration and development activities on SRHA lands. These requirements are administered pursuant to subpart 3814 of this title.

(h) The Soldiers' and Sailors' Relief Act of 1940 (50 U.S.C. appendix 565) excuses performance of assessment work by military personnel while they are on active duty, or within 6 months of their release from active duty, or during or within 6 months after their release from any period of hospitalization due to military injuries. The procedures for obtaining a waiver from the performance of assessment work may be found in subpart 3851 of this title.

[42 FR 5300, Jan. 27, 1977, as amended at 44 FR 9722, Feb. 14, 1979; 47 FR 56304, Dec. 15, 1982; 53 FR 48881, Dec. 2, 1988; 58 FR 38197, July 15, 1993; 59 FR 44857, Aug. 30, 1994; 64 FR 47021, Aug. 27, 1999; 67 FR 38206, June 3, 2002]

#### § 3833.0-5 Definitions.

As used in this subpart:

(a) *FLPMA* means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701) *et seq.*

(b) *Unpatented mining claim* means a lode mining claim or a placer mining claim located and held under the General Mining Law of 1872, as amended (30 U.S.C. 21-54), for which a patent under 30 U.S.C. 29 and 43 CFR part 3860 has not been issued.

(c) *Mill site* means any land located under 30 U.S.C. 42 for which patent under 30 U.S.C. 42 and 43 CFR part 3860 has not been issued.

(d) *Tunnel site* means a tunnel located pursuant to 30 U.S.C. 27.

(e) *Owner or claimant* means the person who is, under State or Federal law, the holder of the right to sell or transfer all or any part of an unpatented mining claim, mill site, or tunnel site. The name of the owner and his or her current address shall be identified on all instruments required to be recorded or filed by the regulations in this subpart.

(f) *Federal lands* means any lands or interest in lands owned by the United States, except lands within units of the National Park System, which are subject to location under the General Mining Law of 1872, *supra*, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

(g) *Proper BLM office* means the Bureau of Land Management State Office listed in § 1821.2-1(d) of this title having